

EXHIBIT E

From: George, Robert [Robert.George@tyson.com]
Sent: Friday, January 23, 2009 7:35 PM
To: Xidis, Claire; 'Ehrich, Delmar R.'; Burns, Bryan; Jones, Tim
Cc: 'lbullock@bullock-blakemore.com'; 'driggs@riggsabney.com'; 'rgarren@riggsabney.com'; 'dpage@riggsabney.com'; 'Jorgensen, Jay T.'; 'Scott McDaniel'; 'Robert Sanders'; 'John Elrod'; 'James Graves'; 'Theresa Noble Hill'; 'Rockwood, Linda L.'; 'Collins, Melissa C.'; Moll, Ingrid; Baker, Fred
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Claire,

Given my sheer amazement that Plaintiffs are actually taking this position, I have not yet conducted any research to determine whether any prior litigant has ever taken such a ridiculous position and, if so, how any court ruled upon the matter. If you have legal authority to support the argument that defendants are not entitled to discover the identity of participants who supposedly provided your experts with the basis for their \$800 Million "contingent valuation damage" estimates in unrecorded, in-home "interviews," please provide me with that authority.

I will call you Monday to satisfy my obligation to meet and confer before defendants file a motion to compel.

Sent from my GoodLink synchronized handheld (www.good.com)

-----Original Message-----

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Friday, January 23, 2009 05:55 PM Central Standard Time
To: George, Robert; Ehrich, Delmar R.
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Robert -

The survey company was retained by Stratus and we do object to you contacting them directly.

I gather from your response that you do not have any authority you can provide in support of your position that you are entitled to this information. If you do, please provide it and we will be happy to review it and discuss this further with you.

E. Claire Xidis | Attorney at Law | Motley Rice LLC
28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

-----Original Message-----

From: George, Robert [mailto:Robert.George@tyson.com]
Sent: Friday, January 23, 2009 5:57 PM
To: Xidis, Claire; 'Ehrich, Delmar R.'
Cc: 'lbullock@bullock-blakemore.com'; 'driggs@riggsabney.com'; 'rgarren@riggsabney.com';

'dpage@riggsabney.com'; 'Jorgensen, Jay T.'; 'Scott McDaniel'; 'Robert Sanders'; 'John Elrod'; 'James Graves';
'Theresa Noble Hill'; 'Rockwood, Linda L.'; 'Collins, Melissa C.'; Moll, Ingrid; Baker, Fred
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Claire,

The defendants do not have time for games.

Is the "company that conducted the survey" a consulting company/expert retained either by the State, Motely Rice or Stratus? If not, I assume you have no objection to the defendants contacting the survey company directly to obtain the names of the survey participants. If you do object to such contact by defendants, I need to hear from you immediately.

Sent from my GoodLink synchronized handheld (www.good.com)

-----Original Message-----

From: Xidis, Claire [mailto:cxidis@motleyrice.com]
Sent: Friday, January 23, 2009 03:43 PM Central Standard Time
To: Ehrich, Delmar R.
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com;
rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.; Moll, Ingrid; Baker, Fred
Subject: RE: Stratus Damages Reports/Missing Considered Materials

Delmar -

The only information the authors of the Stratus report had regarding the identity of the survey participants was an identification number. Each participant was assigned an identification number, and the Stratus authors' only way of identifying particular survey respondents was by this number. The company that conducted the survey maintained a list of names and corresponding identification numbers, but the identity of the respondents was not provided to the Stratus authors as the specific identity of these individuals (names, addresses, etc.) was not part of their analysis. Because the Stratus authors never saw or considered this information, it was not part of their considered materials. However, all of the survey data that the Stratus authors did consider in reaching their conclusions was properly produced on Jan. 5, 2008.

We disagree with your statement that the Defendants have the right to know the identity of these individuals, which the experts did not have or consider in reaching their opinions and which had no bearing on their opinions. We also disagree that the State has failed to produce anything that Defendants are entitled to and disagree that any prejudice could possibly result from this. However, if you are able to provide some authority which supports your position that you entitled to discover these materials, we will review what you provide.

In regard to your request for "transcripts, videotapes and/or audio tapes of interviews of such survey participants," none of the surveys were recorded by these methods, thus no materials responsive to your request exist. You should have everything you are entitled to in the production of materials the Defendants received with the reports.

If you have any additional questions, please let me know.

Thank you,

Claire Xidis | Attorney at Law | Motley Rice LLC
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From: Ehrich, Delmar R. [mailto:DEhrich@faegre.com]
Sent: Wednesday, January 21, 2009 1:48 PM
To: Xidis, Claire
Cc: lbullock@bullock-blakemore.com; driggs@riggsabney.com; rgarren@riggsabney.com; dpage@riggsabney.com; Jorgensen, Jay T.; George, Robert; Scott McDaniel; Robert Sanders; John Elrod; James Graves; Theresa Noble Hill; Rockwood, Linda L.; Collins, Melissa C.
Subject: Stratus Damages Reports/Missing Considered Materials

Dear Ms. Xidis, I write on behalf of the defendants in this action to demand that the plaintiff immediately 1) produce all materials as to the identity of, and contact information for, the survey participants and 2) produce the transcripts, videotapes and/or audio tapes of interviews of such survey participants. The defendants clearly have the right to know the names of the survey participants whose opinions about the Illinois River Watershed and Lake Tenkiller form the basis for the Stratus damage reports. Further, the defendants have the right to determine whether the survey was appropriately administered and evaluated.

This information should have been provided along with the Stratus report on January 5. The plaintiff's failure to provide this information immediately will further prejudice the defendants in preparing rebuttal damage experts within the deadlines provided in the current case management order.

Further, please note that the defendants continue to review the materials on the hard drive that accompanied the Stratus reports. We expect, therefore, that we will shortly send you a list of other materials that Stratus necessarily would have generated in the course of preparing the contingent valuation and which appear not to have been included on the hard drive delivered to defendants.

I would appreciate hearing from you at your earliest opportunity.

Del Ehrich

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